**BILL ANALYSIS**

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| Senate Research Center | C.S.H.B. 2694 |
| 86R29553 JES-F | By: Lucio III (Creighton) |
|  | Business & Commerce |
|  | 5/9/2019 |
|  | Committee Report (Substituted) |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.H.B. 2694 amends current law relating to the authority of certain insurers to make investments in bond exchange-traded funds.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 424, Insurance Code, by adding Section 424.075, as follows:

Sec. 424.075. AUTHORIZED INVESTMENTS: BOND EXCHANGE-TRADED FUNDS. (a) Authorizes an insurer to invest the insurer's funds in excess of minimum capital and surplus in shares of a bond exchange-traded fund registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), as amended, if:

(1) the exchange-traded fund is solvent and reported at least $100 million of net assets in the exchange-traded fund's latest annual or more recent certified audited financial statement;

(2) the securities valuation office has designated the exchange-traded fund as meeting the criteria to be placed on the list promulgated by the securities valuation office of the National Association of Insurance Commissioners (Securities Valuation Office) of exchange-traded funds eligible for reporting as a statutory long-term bond obligations on Internal Revenue Service Form 1040, Schedule D; and

(3) the amount of the insurer's investment in the exchange-traded fund does not exceed 15 percent of the insurer's capital and surplus.

(b) Provides that this section does not authorize an insurer to invest in a bond exchange‑traded fund that has:

(1) embedded structural features designed to deliver performance that does not track the full unlevered and positive return of the underlying index or exposure, including a leveraged or inverse exchange‑traded fund; or

(2) an expense ratio in excess of 100 basis points.

(c) Authorizes an insurer to deposit with the Texas Department of Insurance (TDI) shares of a bond exchange-traded fund described by Subsection (a) as a statutory deposit if state law requires a statutory deposit from the insurer.

SECTION 2. Amends Subchapter C, Chapter 425, Insurance Code, by adding Section 425.1231, as follows:

Sec. 425.1231. AUTHORIZED INVESTMENTS: BOND EXCHANGE-TRADED FUNDS. (a) Authorizes an insurance company to invest the insurer's funds in excess of minimum capital and surplus in shares of a bond exchange-traded fund registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), as amended, if:

(1) the exchange-traded fund is solvent and reported at least $100 million of net assets in the exchange-traded fund's latest annual or more recent certified audited financial statement;

(2) the securities valuation office has designated the exchange‑traded fund as meeting the criteria to be placed on the list promulgated by the securities valuation office of exchange‑traded funds eligible for reporting as a statutory long‑term bond obligation on Internal Revenue Service Form 1040 Schedule D; and

(3) the amount of the insurance company's investment in the exchange‑traded fund does not exceed 15 percent of the insurance company's capital and surplus.

(b) Provides that this section does not authorize an insurance company to invest in a bond exchange‑traded fund that has:

(1) embedded structural features designed to deliver performance that does not track the full unlevered and positive return of the underlying index or exposure, including a leveraged or inverse exchange‑traded fund; or

(2) an expense ratio in excess of 100 basis points.

(c) Requires a bond exchange-traded fund described by Subsection (a) to be considered a business entity for purposes of Section 425.110 (Authorized Investments: Obligations of and Other Investments in Business Entities).

(d) Authorizes an insurance company to deposit with TDI shares of a bond exchange-traded fund described by Subsection (a) as a statutory deposit if state law requires a statutory deposit from the insurance company.

SECTION 3. Effective date: September 1, 2019.